

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES LEROY HERRINGTON,

Plaintiff,

v.

No. 2:16-cv-00680-AC

OPINION AND ORDER

**DR. THOMAS BRISTOL; DR. JODEAN
ELLIOTT-BLAKESLEE; DR. GARTH
GULICK; A. CLEMENTS;
THERAPUTIC LEVEL OF CARE
COMMITTEE; STEVE SHELTON;
MIKE GOWER; SYLVIA WILCOX,
Registered Nurse at SRCI; AMY HUGHES,
Registered Nurse at SRCI; JANE/JOHN
DOE, Members of the Therapeutic Level of
Care Committee; ESTATE OF ELLIOTT-
BLAKESLEE,**

Defendants.

MOSMAN, J.,

On July 29, 2019, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [ECF 264], recommending that I grant Defendants’ Motion for Summary Judgment [ECF 147], and that I deny Plaintiff’s Motion for Summary Judgment [ECF 86]. Plaintiff filed his objections to the F&R on October 28, 2019, [ECF 288], to which Defendants responded [ECF 289].

LEGAL STANDARD


The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review of the F&R, I agree with Judge Acosta's reasoning and conclusions. Therefore, I ADOPT the F&R [264] as my own opinion. I GRANT Defendants' Motion for Summary Judgment [147] and I DENY Plaintiff's Motion for Summary Judgment [86]. As a result, this case is DISMISSED with prejudice. All pending motions are DENIED as moot.

IT IS SO ORDERED.

DATED this 17 day of January, 2020.


MICHAEL W. MOSMAN
United States District Judge